

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TIWON SIMS)	
)	
Plaintiff,)	22-cv-5691
)	
)	Judge Honorable Franklin U. Valderrama
)	
v.)	
)	
CITY OF CHICAGO et al,)	
)	
)	
Defendants,)	

DEFENDANTS’ MOTION TO DISMISS THIS CASE FOR WANT OF PROSECUTION

Defendants Victor Alcazar, Brandon Nieta-Scott, and City of Chicago, through their respective counsel, move this Court to dismiss this case with prejudice for want of prosecution. In support of their motion, Defendants state as follows:

1. Plaintiff filed this lawsuit on October 17, 2022. ECF Dkt. No. 1.
2. Defendants filed an answer and partial motion to dismiss on January 19, 2023. *See* ECF Dkt Nos. 16,17, 18 respectively.
3. On February 24, 2023, Plaintiff filed an amended complaint. ECF Dkt. No 25.
4. On March 3, 2023, Defendant City filed an answer. ECF Dkt. No. 30.
5. On March 10, 2023, the individual defendants filed a motion to dismiss the amended complaint in its entirety. ECF Dkt. No 31. This motion has been fully briefed.
6. On June 30, 2023, Plaintiff’s attorney, Peter Sadelski, filed a motion to withdraw as counsel for Plaintiff citing “fundamental disagreements”. *See* ECF Dkt. No. 47.
7. On July 12, 2023, a telephonic hearing regarding Mr. Sadelski’s motion to withdraw was held with all parties present including Plaintiff. This Court granted Mr. Sadelski’s

motion to withdraw and instructed Plaintiff to file a pro-se appearance or retain counsel by July 24, 2023. ECF Dkt No. 49.

8. This Court further warned Plaintiff that if no appearance has been filed by July 24, his case may be dismissed with prejudice for want of prosecution. This Court also directed Plaintiff to the U.S District Court's Pro-Se Assistance Program *Id.*

9. A copy of the court's order was mailed to Plaintiff on July 14, 2023. *Id.*

10. As of the filing of this motion, neither Plaintiff nor an attorney have filed an appearance on this case.

11. Federal Rule of Civil Procedure 41(b) provides "For failure of the plaintiff to prosecute or to comply with these rules or any order of the court, a defendant may move for dismissal of an action or of any claim against the defendant." USCS Fed Rules Civ Proc R 41.

12. A district court is permitted to dismiss a suit where a plaintiff is failing to prosecute it. *Patterson v. Univ. of Chiago*, 2003 U.S. Dist. 22768, 5*. *See also Jackson v. City of Chicago*, 2004 WL 2958771, *4 (Nov. 19, 2004); *Lankowsky v. City of Chicago*, 2015 WL 4868619, at *2 (N.D. Ill. Aug. 13, 2015) (citing *Easley v. Kirmsee*, 382 F.3d 693, 698 (7th Cir. 2004)).

13. In the present case, Plaintiff failed to comply with this Court's order to file an appearance by July 24, 2023. As of this filing, Plaintiff has not indicated that he intends to pursue this matter.

14. Defendants ask that this Court dismiss this lawsuit with prejudice for want of prosecution.

CONCLUSION

Defendants ask that this Court grant their motion to dismiss Plaintiff's complaint with prejudice for want of prosecution, and for any other relief deemed just by this Honorable Court.

Respectfully submitted,

/s/ Alexander Micheline

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CERTIFICATE OF SERVICE

I certify that on August 2, 2023, I served a copy of Defendant Officers' Motion upon Plaintiff via ECF and via certified mail to the following address:

Tiwon S. Sims
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/s/ Alexander Micheline